

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

KYLE J. ALLISON, TOM BALDINO,
DANIEL F. BARENS, ROGER BEATTY,
RICK R. BRASSINGTON, CLIFFORD
O. CLARK, JR., ANDREW R. CORBIT,
MICHAEL D. CRAIG, TRENT
EBERSOLE, RANDY C. FARMER,
DANIEL L. GOODRICH, WARREN
HANCHETT, CLARENCE H. HULSEY,
JR., JACK KRANCICH, MICHAEL A.
LADD, RYAN MARCUSSEN,
MICHAEL S. MAY, RONALD J.
MITCHELL, JR., RANDY C. PEARSON,
BRIAN DONALD PETERSON, DANIEL
M. REICHARD, DEAN REYNOLDS,
JACK SPENCER, ANDREW J.
STEFFEL, MARK G. WALTERS,
SCOTT D. WHIPPLE, and MATTHEW
A. WOOD

Plaintiffs,

v.

THE PEPSI BOTTLING GROUP, INC.,

Defendant.

Case No. 5:03-CV-244

Hon. Richard Alan Enslen
U.S. District Judge

**JUDGMENT GRANTING
RULE 60(b) RELIEF**

Martin R. Sturm (P33016)
William P. Webster (P63144)
CHAMBERS, STEINER & STURM
Attorneys for Plaintiffs
141 East Michigan Avenue, Suite 400
Kalamazoo, MI 49007
(269) 385-4300

Guy N. Halgren (115732)
Samantha D. Hardy (199125)
Karin Dougan Vogel (131768)
SHEPPARD, MULLIN, et al.
Attorneys for Defendant
501 West Broadway, 19th Floor
San Diego, CA 92101-3598
(619) 338-6500

David J. Houston (P30448)
Kristine M. Moore (P60305)
DICKINSON WRIGHT PLLC
Attorneys for Defendant
215 South Washington Square Suite 200
Lansing, MI 48933-1812
(517) 371-1730

Based on an intervening change in law, specifically, the decision of the Michigan Court of Appeals in *Alexander v. Perfection Bakeries*, 705 N.W.2d 31 (Mich. Ct. App. 2005), the Court previously granted Defendant The Pepsi Bottling Group, Inc.'s ("PBG") Unopposed Motion Under Rule 60(b) (Dkt. No. 174). The Court entered an Order certifying to the Sixth Circuit Court of Appeals that remand would be appropriate given this Court's intention to grant Rule 60(b) relief (Dkt. No. 177), and the Sixth Circuit subsequently ordered the case remanded (Dkt. No. 178).

Accordingly, pursuant to this Court's Order granting PBG's Unopposed Motion Under Rule 60(b), and for the reasons set forth therein,

IT IS HEREBY ORDERED AS FOLLOWS:

1. The Order and Partial Judgment dated June 28, 2004, granting Plaintiffs' Motion for Partial Summary Judgment (Dkt. No. 21), denying Defendant's Motion for Summary Judgment (Dkt. No. 18), and entering judgment in favor of Plaintiffs and against Defendant as to the issue of liability only, is vacated.
2. The June 28, 2004 Opinion addressing the cross-motions for summary judgment is reversed, insofar as that Opinion found PBG was liable for violations of the Michigan Minimum Wage Law.
3. Based on the above, Judgment, initially entered March 21, 2005, and amended by Amended Judgment, entered March 31, 2005, is vacated.
4. The Order dated February 10, 2006, granting in part and denying in part Plaintiffs' Motion for Attorney Fees and Pre-Judgment Interest and Post-Judgment Interest (Dkt. No. 156), is recognized as moot.

5. Judgment is entered in favor of PBG.
6. No attorneys' fees or costs shall be awarded to any party.

DATED in Kalamazoo, MI:
June 19, 2006

/s/ Richard Alan Enslen
RICHARD ALAN ENSLEN
SENIOR UNITED STATES DISTRICT JUDGE

LANSING 34944-1 376583v1